

MARICOPA COUNTY BOARD OF HEALTH MEETING MINUTES

Monday, October 27, 2014

301 W. Jefferson Street, 10th Floor

Phoenix, Arizona 85003

Board of Supervisors Conference Room

Andy Ingram called the meeting to order at 3:05 p.m.

ROLL CALL:

Members Present:

Debra Baldauff
Andrew Ingram
Francisca Montoya
Kip Steill
Colleen Wheeler
Dr. Michael Mills
Andrew Kunasek

Members Excused:

Don Cassano
Dr. Boyack

Ex-Officio: Bob England, M.D. (*Excused*)

CALL TO THE PUBLIC:

Andy Ingram asked if there was anyone that wanted to address the board today. The public comment forms were given to Mr. Ingram.

Mr. Max Porter reminded everyone that Dr. England is out until around Thanksgiving and he introduced Dr. Rebecca Sunenshine who is the Medical Director for Disease Control and is guiding our department right now. Dr. Sunenshine will give the Director's report later in the meeting.

Dr. Sunenshine explained that she's a CDC assignee and is a career Epidemiology Field Officer. She did her training in internal medicine and infectious diseases and then two years in Atlanta with the Epidemic Intelligence Service. She's been in Arizona for nine years -5 years stationed at the Arizona Department of Health Services and just over four years stationed at Maricopa County Department of Health.

DISCUSSION/ACTION ITEMS

1. **Approval of Minutes:** Motion was made by President Ingram to approve the minutes from the Special BOH Meeting held on September 10, 2014. Motion was seconded by Mr. Steill and motion passed unanimously.

2. **Pool Abatement Assessment Appeal – Frank and Barbara Ruddy** **Ms. Vonda Canaan**

Cause Number –EF-13-01295. Property Owner: Frank and Barbara Ruddy
Property Address – 1075 South Xavier Court, Goodyear, AZ 85338

Ms. Vonda Canaan announced that an international phone call was being placed to Ms. Barbara Ruddy who had requested to be called to discuss her appeal. In this case, a citizen's complaint was filed on August 2, 2013 regarding a green pool and possible breeding mosquitoes at the property in question. On the same day, the Department's Vector Control Division sent a letter to the property owner informing them of the complaint and letting them know of any mosquito breeding on the property must be eliminated (Exhibit 1).

An inspection was done on August 5, 2013 to investigate the complaint but no one was present. The inspector is present today if anyone has questions. The inspector viewed the pool on the property and observed it to be green and stagnant and possibly breeding mosquitoes. A Public Health Nuisance Abatement Order (Exhibit 2) was posted on the front door of the property. The Abatement Order required the Owner to remove the public health nuisance within 24 hours at the Owner's expense according to State Statutes.

The property was inspected again on August 13, 2013 and the Abatement Order was still posted to the front door and again the pool on the property was observed to be stagnant and possibly breeding mosquitoes. An Abatement Warrant was obtained on August 20, 2013 and the inspector returned to the property with a peace officer, found no one present, and the backyard was entered and it was determined that the pool was green, stagnant and breeding mosquitoes.

It was determined that the condition of the Property constituted a Public Health Nuisance dangerous to the public health and the Department's Vector Control removed the nuisance pursuant to ARS Statute 36-602 (A). The Department incurred a cost in the amount of \$308.85. Ms. Canaan advised there is a provision to recover costs -ARS 36-602 (B) (Exhibit 3).

On December 3, 2013, the Assessment Statement was recorded in the Office of the Maricopa County Recorder as a notice to current lienholders of the Property and was not an assessment lien. On December 6, 2013, the Department mailed the Assessment Statement via registered mail to the Owner addressed listed on the Property. Upon further checking, on May 28, 2014 it was found that the item was still in transit.

On May 30, 2014, the Department mailed the Assessment Statement via international registered mail to the Owner address as reflected on the Maricopa County Treasurer site. At that time, they did find a different address for the owners. On June 9, 2014, The Assessment Statement was delivered to the Owner.

On June 10, 2014, Ms. Barbara Ruddy filed a timely appeal (Exhibit 12) of the Assessment Statement to the Maricopa County Board of Health pursuant to Regulations 14(h) of the Code. It was noted that Regulation 14(h) of the Code provides that, after a hearing, the Board may uphold, modify, or revoke the Assessment Statement. Ms. Canaan requested the Board sign the request to uphold the Assessment. Questions were raised about the amount of time that passed prior to the appeal from Ms. Ruddy.

Ms. Ruddy pled her case and inserted that she did not receive notifications about the pool issues because the notifications were not sent to the correct address. She argued that she first realized there were some problems when she received an extremely high water bill (\$800). She called the utility company to inquire why and they told her that she had a huge usage of water. That's why she contacted her pool company and asked them to go out and find out what was going on. She was told that she had a water leak and she called a plumber. The plumber ordered a part and that took time so in the interim, the water was turned off. Later, the pool company came back to shock the pool-more than once. Ms. Ruddy reiterated that she still had not gotten any notice from Environmental and was completely unaware but was working to fix the problem.

Ms. Halley asked Ms. Ruddy if she had updated her address since the incident. She noted that she'd also put a forwarding order on file to receive mail. She was told the address used was taken from the property tax and she phoned them to make sure they had her current address. Ms. Canaan said she'd run the parcel ID before this and it's still showing the Calgary address.

Dr. Mills voiced concern about the health risk posed to the community because of the mosquitoes. He also inquired about specific dates the pool company was working on this. He said it was clear that for a period of two weeks nothing was done. He questioned how many months the water supply was shut off. She said she was doing everything she could to get it cleaned up. The consensus was that if a detailed Hardy Pool Company bill was presented instead of just a statement that gives an October date, it might warrant further consideration but not without it. Ms. Ruddy said that's all she's got.

Ms. Canaan read the statement of facts and based on the facts presented and Arizona law, the Department requests that the Board sign an order upholding the Department's Assessment Statement, awarding the Department interest on the assessed costs at the rate of 10% per annum from the date incurred until paid pursuant to A.R.S. 44-1201, and ordering Owner to pay the assessed costs within thirty (30) days of the date of the Board's order.

Mr. Ingram entertained a motion to uphold, modify or revoke the assessment fee of \$308.85. Mr. Steill made a motion to uphold the assessment fee. Motion was seconded by Dr. Mills and the motion passed unanimously.

Ms. Ruddy asked for clarification and Ms. Canaan advised that the assessment is upheld and there is a cost of \$308.85 due to the Department within a period of thirty (30) days to pay the assessment before it becomes a lien. She asked if she had any other recourse on this matter. Mr. Steill stated that she could live here and the Department reached out to her with every means possible. He explained that it's a matter of protecting people living in Arizona –Maricopa County. Further, there's a vector control problem at a property owned by you, and we did everything we could to reach you to let you know about the situation. He stressed as the property owner, it's her responsibility.

She asked what she could do to pursue this further. She was advised that she could go to the Superior Court of Maricopa County to appeal. However, she will have to contact an attorney for this matter because the BOH is not equipped to give legal advice on the next appeal step.

3. Fee Waiver Applications

Ms. Jeannie Taylor

(See attached document-10-27-14 BOH Fee Waiver Summary)

Ms. Jeannie Taylor presented 14 fee waivers for review and consideration of approval. All of the waivers presented were for non-profit organizations. It was noted that the summary sheet table had a place for opinions and the question was raised about whether or not Environmental Services ever writes an opinion. Ms. Taylor said that the Department does not express an opinion about any of the applicants. **Motion to approve the Fee Waiver applications was made by Mr. Steill, seconded by Ms. Montoya and motion passed unanimously.**

Ms. Taylor announced that based on feedback from applicants they have created new Fee Waiver Applications. Samples were available, if anyone was interested in looking at one. They will be using the new applications in the future. However, the old applications are still on the website so they will still be honored until the new ones are uploaded to the site.

4. Enhanced Regulatory Outreach Program (EROP)

Mr. John Kolman

Mr. John Kolman noted that he had two cases today and he requested to handle them on two separate tracks.

Case ES-2014-001/2013 FDA Food Code Adoption: Mr. Kolman reported that a number of years ago they adopted the 2009 FDA Code by reference this would be adopting the 2013 FDA Food Code, also by reference. This is an evolutionary step in the progression of food

safety and protection. It offers the industry some benefits as well such as glove use and ROP devices or using ROP in date marking a product. It also allows us to bring in a new feature that is currently coming in called Micro Markets. Generally, they received favorable comments on this proposal so he asked for a recommendation from the Board of Health on the EROP policy for an expedited track to have the FDA 2103 Food Code brought into the health code by reference.

Prior to doing that, President Ingram advised that there was a request for public comment from Mr. Chuck Walton. Mr. Walton announced that he owns Ace Vending in Arizona and his company has thousands of vending machines throughout Maricopa County. His company also provides coffee service, food service and is bridging into the micro market business that was previously discussed. He came to speak in support of the 2013 Food Code, specifically in support of regulation number 6, establishing the Micro Market category. He noted that Micro Markets are a huge expanding part of the industry. He encouraged the department to keep an expedited track and in addition, consider adopting a fee schedule for Micro Markets. The problem he has is that they're kind of pigeon-holed and being treated as a different category than they are because a niche doesn't exist for them yet. There's no provision in the current regulations and they're paying higher fees than normal. Mr. Walton was asked to describe Micro Marketing to the group. He noted that he was here in support of the code adoption.

Mr. Kolman explained that this was part of the task force recommendations looking at the 2013 Food Code. Also, as part of that task force, there was a recommendation to look holistically at the fee structure. They're currently in discussions with OMB regarding the fee structure and Micro-Markets are definitely part of that discussion. He hopes to come back in the near term to start the EROP process in that regard. **Motion was made by Ms. Halley to approve Case ES-2014-001/2013, FDA Food Code Adoption and take the expedited recommendations to the Board of Supervisors to follow the usual process for adoption of this proposed change into the health code. Motion was seconded by Ms. Montoya, and motion was passed unanimously.**

Case ES-2014-003/Food Service Worker Certification: Mr. Kolman noted that this past legislative session there was a Statute change to ARS that necessitated us to look at our local code and bringing it into compliance and alignment with what had passed at the legislature. Essentially, to date MCESD received comments from 217 stakeholders via the Enhanced Regulatory Outreach Program (EROP) website and other means: 207 expressed support, 7 opposed, and 3 stated their opinion as other.

They're working on the proposed changes now; however, Mr. Kolman stated that the proposed change is to follow our cutting edge and managerial control, whereby, they are going to put more responsibility on the owner/operator of the facility. Under the FDA Food Codes, the manager/owner is responsible for training their staff in proper and safe food handling. What this will do is put more onuses on the owner/operator to do that training. There are companies that train food handler's workers as well as managers and those companies will still be there. They will allow any company that meets the Statute and the Statute calls for certification on exam methods and types and requires they teach on five specific areas of food safety. Facilities can use one of those 21 or 22 companies currently as part of their training or they can use their own in-house training. Some of the larger chains have in-house training that deals specifically with food service worker training so they can use either one of those tracks. The Department will no longer be issuing food worker cards. They would be looking at certificates on file and will look at what violations occurred during inspections, especially if it's related to training. Companies would be responsible for providing evidence of training. It's essentially aligning it to the State's Statute but it's dealing with an open and free market place

for restaurants and food entities to allow this type of training. This will get us out of issuing the food handling card business.

Mr. Kolman explained that some objections are related to change. Some people think a more rigid training class is more beneficial in their viewpoints. These are the two categories that he's seeing from the stated objections. There is some fear that going away from this very regimented rigid county or government control training will somehow endanger or cause harm to the public. They are going to go through the normal EROP process but because they have had some opposition, they will have some more discussions with these folks to see if there is some other language that can be proposed to satisfy the rule requirements as well as meeting the objections expressed to the department. At the end of the day, they will be coming back to a future Board meeting to ask for concurrence to move forward to the Board of Supervisors but at this point, all they're asking for is to move forward in the full EROP process as given by policy. They will continue to work with all stakeholders involved to see if they can craft a better piece of rule than we have today.

President Ingram asked for a motion to recommend continuance into the full EROP process.

Prior to moving forward with a motion to approve, Mr. Vernon Stout and Dr. Christie Lewis from State Food Safety requested to speak. Mr. Stout noted they are the current provider of the Maricopa County food worker program right now.

Mr. Stout read a summary of a letter that was written by their attorneys at Durham Jones & Pinegar sent to Maricopa County regarding ES-2014-003 in opposition of the proposed new rule to aligning with the recently enacted ARS Section 11-269.12 because of the impact it will have on its contract with Maricopa County. He stressed that his company has invested significantly and has in place the manpower and equipment necessary to continue to fulfill its responsibilities under the contract to train food service workers in the County over the remainder of the contract.

Dr. Lewis gave a couple of points for consideration that spoke to the importance of food safety training and the potential threat the new rule will pose to the safety of the public. She also acknowledged the effort and costs undertaken by her company to provide training to food service workers within Maricopa County. She said that elimination of the food safety training by the County was not warranted and if passed, it would interfere with the contract that is currently in place.

Mr. Kolman reiterated that the Department is interested in taking into consideration all of our stakeholder's opinions and comments to ensure their insights are looked at. The Department wants to incorporate all that they can into the ordinance. Their goal is to make the best possible ordinance. At this point, he cannot declare how it's going to look because right now it's so malleable, especially given all the changes required by Statute. Today's recommendation is to proceed forward with the EROP process and at some point in the future, they will come back with the efforts from the additional meetings, outreach activities and take into account additions and factions of the current code.

Motion to recommend continuance into the full EROP process was made by Ms. Halley, seconded by Mr. Steill and motion passed unanimously.

Discussion Items:

1. Update on Ebola and Enterovirus D68:

Dr. Rebecca Sunenshine

Dr. Rebecca Sunenshine distributed a copy of her PowerPoint presentation and provided a brief update on the Ebola and Enterovirus D68 outbreak. She provided some statistics on number of cases and reported information on transmission and symptoms of the Enterovirus D68. Dr. Sunenshine also identified some of the treatment and prevention for people with the respiratory illness caused by EV-D68 infection.

Maricopa County is working with CDC to test suspect cases. She noted that CDC expects that infections will likely begin to decline by late fall.

Dr. Sunenshine stressed that the three countries affected by the Ebola outbreak are Liberia, Guinea and Sierra Leone. She gave some of the signs and symptoms that are present and noted that Ebola is spread through direct contact through broken skin or unprotected mucous membranes. Mosquitos or other insects cannot transmit Ebola virus. A graph provided examples of how contagious Ebola is compared to other viruses such as mumps, measles, SARS, etc. and as demonstrated, is very low in comparison.

Maricopa County is working with healthcare providers, cities/towns, EMS and other providers on screening and infection control. The Governor's office appointed Dr. England to its newly established Governor's Council for Infectious Disease. Dr. Sunenshine said we can expect the outbreak in West Africa to continue for at least six months, maybe years. She shared that there will likely be several more cases with exposure in West Africa to occur in the United States. However, transmission will be limited and confined to high risk exposures, i.e., healthcare workers. Dr. Sunenshine concluded that the best way to prepare is to train in advance and have a coordinated plan.

ANNOUNCEMENTS AND CURRENT EVENTS

- Next meeting is January 26, 2015

ADJOURNMENT: There being no further business, motion to adjourn the meeting was made by Ms. Montoya, seconded by Ms. Halley and motion was passed unanimously. The meeting was adjourned at 5:08 p.m.